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Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Petition for Rulemaking to Amend Rule Section	)	RM No. 11355
22.901(b) to Extend Analog Sunset Date	)	
	)	
Sunset of the Requirement that Cellular Systems	)	
Maintain Analog Transmission Capacity through	)	WT Docket No. 01-108
February 18, 2008	)	
	)	

**JOINT COMMENTS**

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## SUMMARY

ALLTEL Corporation, Dobson Communications Corporation, and Verizon Wireless hereby oppose the Petition for Rulemaking ("Petition") filed jointly the Alarm Industry Communications Committee ("AICC") and ADT Security Services, Inc. ("Petitioners"). The Petition should be denied because it (i) misconstrues the scope of the analog compatibility requirement which does not apply to fixed, one way devices like those used by Petitioners, and (ii) is inconsistent with indistinguishable Commission precedent. As such, any further consideration of the Petition would waste scarce Commission resources on a request that, even if granted, cannot give Petitioners the relief they are seeking.

Cellular operators have relied on the Commission's 2002 determination that the analog requirement would sunset after a five-year transition period and have made network plans and investments based on the 2008 sunset of this obsolete technology. They should not be forced, unlike other wireless service providers with whom they compete, to effectively subsidize alarm service providers that have failed to plan properly. Despite Petitioners' claims that digital alternatives have become available only recently, such alternatives have been available for years. One member of AICC has been touting the availability of digital alarm solutions since 2002!

In evaluating the analog compatibility requirement under Section 11, the Commission determined that "the rule is no longer necessary to achieve its purposes" and that it actually "imposes costs and impedes spectral efficiency" and hinders competition. The Commission indicated that, consistent with the purpose of the rule, the sunset date would be extended only if hearing aid compatible handsets were unavailable or CMRS market conditions changed. Neither issue justifies an extension of the analog requirement. Hearing-aid compatible phones are available and the market remains competitive. Given that the rule no longer serves its original purpose and the only bases for extending the rule under the Commission's Section 11 analysis are not present, the rule cannot be extended and the Petition should be denied.

Moreover, Commission precedent does not support an extension of the analog requirement. In 2002, a number of local government entities and legislators expressed concern that elimination of the analog compatibility requirement would undermine public safety because fixed highway emergency call boxes relied on analog cellular service. The Commission determined that these concerns did not justify retention of the analog requirement because "callboxes are not mobile devices by definition, and thus service to such equipment is not covered by the analog requirement." The Commission also has refused to extend the sunset of the CMRS resale obligation to accommodate commercial interests and has stressed that sunsets provide necessary regulatory certainty. These precedents support denial of Petitioners request.

The costs associated with maintaining the analog requirement are significant and Petitioners seek to impose those costs — whatever they may be — on the cellular industry solely for the benefit of the alarm industry. The Commission has previously recognized the substantial financial burden associated with maintaining and operating analog networks, as well as the concrete opportunity costs — the efficiencies forgone by using spectrum for analog service instead of digital service. These costs are exacerbated by the fact that many network infrastructure vendors no longer support analog equipment and most analog network infrastructure products are manufacturer-discontinued. These operating costs and inefficiencies could inhibit the roll-out of broadband services by cellular operators in many areas. Thus, in addition to being extraordinarily difficult and expensive for the cellular industry, an extension of the analog requirement would not serve the public interest.

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Section 22.901(b) to Extend Analog Sunset	)	
Date	)	
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Sunset of the Requirement that Cellular	)	WT Docket No. 01-108
Systems Maintain Analog Transmission	)	
Capacity through February 18, 2008	)	

**COMMENTS**

ALLTEL Corporation, Dobson Communications Corporation, and Verizon Wireless ("Licensees") hereby submit comments in response to a Petition for Rulemaking ("Petition") filed jointly by the Alarm Industry Communications Committee and ADT Security Services, Inc. ("Petitioners").<sup>1</sup> As a preliminary matter, Licensees emphasize that they are concurrently filing a Motion to Dismiss the Petition (copy attached). The Motion to Dismiss makes clear that the Petition does not warrant consideration because it (i) misconstrues the scope of the Part 22 analog compatibility requirement which does not apply to fixed, one way devices like those used by the alarm industry, and (ii) is inconsistent with indistinguishable 2002 Commission precedent. As such, Licensees submit that any further consideration of the Petition would waste scarce Commission resources on a request that, even if granted, cannot serve to give Petitioners the

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<sup>1</sup> See *Wireless Telecommunications Bureau Seeks Comment on Petition for Rulemaking to Extend Cellular Analog Sunset Date*, RM No. 11355, *Public Notice*, DA 06-2559 (Dec. 20, 2006) ("Public Notice").

relief they are seeking.<sup>2</sup> Licensees urge the Commission to consider the Motion to Dismiss as a first step in this matter.

Although the arguments set forth in the Motion to Dismiss should end any further deliberations on the Petition, out of an abundance of caution, Licensees submit the instant comments in response to the Commission's December 20<sup>th</sup> Public Notice.

Cellular operators have relied on the Commission's 2002 determination that the analog requirement would sunset after a five-year transition period and have made network plans and investments based on the 2008 sunset of this obsolete technology. They should not be forced, unlike other wireless service providers with whom they compete, to effectively subsidize alarm service providers that have failed to plan for the transition to newer, more efficient technologies. There are digital wireless solutions available for alarm service providers, and there are alternative sources of alarm communications links. Alarm service providers should not, at the last minute, be given a free ride at the expense of cellular operators who are working diligently to bring the benefits of digital technology to wireless consumers.

### **BACKGROUND**

The analog compatibility requirement was adopted by the Commission in 1981 to ensure a minimum level of compatibility that would enable cellular subscribers to roam from one cellular service area to the next and still obtain service with minimal difficulty.<sup>3</sup> The requirement is contained in Section 22.901(b) of the Commission's rules which states:

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<sup>2</sup> The Commission placed the Petition on public notice and sought comment on "statutory, case law, and other legal authority that would support an extension of the sunset date." *Public Notice* at 3.

<sup>3</sup> See *Inquiry into the Use of the Bands 825-845 and 870-890 for Cellular Communications Systems*, CC Docket No. 79-318, *Report and Order*, 86 FCC2d 469, 508 (1981); *Memorandum Opinion and Order*, 54 RR 2d 375, 375 (1983); *Amendment of Parts 2 and 22 of the Commission's Rules to Permit Liberalization of Technology and Auxiliary Service Offerings in*

Until February 18, 2008, each cellular system that provides *two-way* cellular *mobile* radiotelephone service must —

- (1) Maintain the capability to provide compatible analog service (“AMPS”) to cellular telephones designed in conformance with the specifications contained in sections 1 and 2 of the standard document ANSI TIA/EIA-553-A-1999 ***Mobile Station – Base Station Compatibility Standard*** (approved October 14, 1999) . . .;
- (2) Provide AMPS, upon request, to subscribers and roamers using such cellular telephones . . .<sup>4</sup>

The rule thus requires cellular licensees to provide AMPS to cellular telephones designed in conformance with ANSI TIA/EIA-553-A-1999 Mobile Station – Base Station Compatibility Standard (approved October 14, 1999) (“Bulletin 553-A”). Bulletin 553-A was adopted “to ensure that a *mobile* station can obtain cellular service in any cellular system manufactured according to this standard.”<sup>5</sup>

The analog compatibility requirement was never intended to be permanent. From the outset, the Commission recognized that cellular networks ultimately would transition from analog to digital technologies:

We also seek comment on ways in which our rules can encourage compatibility with digital technology. As presently designed, the cellular system will employ analog circuits for voice transmission. It may be desirable to employ digital techniques in the future. Since technology and cost trends seem to be favoring digital over analog signal processing techniques, and since we see digital techniques becoming increasingly incorporated in communications networks, considerations of system architecture suggest that the public may be better served by a digital cellular system. Besides facilitating connectivity and otherwise contributing to a more compatible communications infrastructure, digital techniques employed in cellular radio may be appropriate for the purposes of increasing privacy and spectral efficiency. Thus, even if we do not mandate the

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*the Domestic Public Cellular Radio Telecommunications Service*, GEN. Docket No. 87-390, Report and Order, 3 FCC Rcd 7033, 7038 (1988) (“*Cellular Flex Order*”).

<sup>4</sup> 47 C.F.R. §22.901(b) (emphasis added).

<sup>5</sup> Telecommunications Industry Association, Electronic Industries Alliance, Mobile Station – Base Station Compatibility Bulletin 553-A at i (1999) (“Bulletin 553-A”).

use of digital techniques, we may wish to assure that our rules allow the graceful evolution of an analog cellular system to a digital one.<sup>6</sup>

By 1987, the Commission recognized that the analog compatibility requirement was hampering the advancement of cellular networks and, therefore, proposed elimination of the requirement.<sup>7</sup> The Commission decided to retain the requirement to ensure adequate roaming capability, but liberalized its rules to permit cellular licensees to utilize digital technologies.<sup>8</sup>

In 1992, with the introduction of new broadband personal communications service ("PCS") utilizing digital technologies (and not subject to an analog compatibility requirement), the Commission sought comment on whether cellular carriers should continue to be required to provide analog service.<sup>9</sup> The record in the proceeding was incomplete, however, so the Commission retained the requirement.<sup>10</sup>

The Commission again sought comment on elimination of the cellular analog compatibility requirement in 2001.<sup>11</sup> The Commission noted that elimination may be justified because:

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<sup>6</sup> *Inquiry into the Use of the Bands 825-845 and 870-890 for Cellular Communications Systems*, CC Docket No. 79-318, *Notice of Inquiry and Notice of Proposed Rulemaking*, 78 FCC2d 984, 1007 (1980).

<sup>7</sup> *See Amendment of Parts 2 and 22 of the Commission's Rules to Permit Liberalization of Technology and Auxiliary Service Offerings in the Domestic Public Cellular Radio Telecommunications Service*, GEN. Docket No. 87-390, *Notice of Proposed Rulemaking*, 2 FCC Rcd 6244, 6245-46 (1987).

<sup>8</sup> *See Cellular Flex Order*, 3 FCC Rcd at 7038.

<sup>9</sup> *Amendment of the Commission's Rules to Establish New Personal Communications Services*, GEN Docket No. 90-314, *Notice of Proposed Rulemaking and Tentative Decision*, 7 FCC Rcd 5676, 5704-05 (1992).

<sup>10</sup> *Amendment of the Commission's Rules to Establish New Personal Communications Services*, GEN Docket No. 90-314, *Second Report and Order*, 8 FCC Rcd 7700, 7747 (1993).

<sup>11</sup> *See Year 2000 Biennial Regulatory Review*, WT Docket No. 01-108, *Notice of Proposed Rulemaking*, 16 FCC Rcd 11169 (2001) ("*2000 Biennial Review NPRM*"). In a report in early 2001 that preceded the *NPRM* in early 2001, Commission staff identified the analog service

- Cellular carriers were competing against PCS and SMR operators that were not subject to the analog compatibility rule, or any similar requirement;<sup>12</sup>
- PCS licensees established technically compatible systems, in the absence of rules requiring technical compatibility, that permit subscribers to place and receive calls nationwide;<sup>13</sup>
- International standards had been developed that promoted global interoperability.<sup>14</sup>

A voluminous record was developed in response to the proposed elimination of the analog requirement. Notably, comments filed by a number of local governmental entities and U.S. Senators expressed concern that the elimination of the analog compatibility requirement would undermine public safety because highway emergency call boxes rely on analog cellular service.<sup>15</sup> Companies that provided telematics service, including those that offered access to emergency services (such as E911 access and crash notification systems), also opposed elimination of the requirement because:

Elimination of the rule will significantly impair their ability to provide service because these systems require analog technology due to its ubiquitous coverage, and that there is currently no other widely-deployed technology available to adequately support telematics services. While digital service providers are continuing to expand their service area footprint, . . . there are still large gaps in coverage.<sup>16</sup>

After reviewing the record, the Commission determined that “the rule is no longer necessary to achieve its purposes” and that it actually “imposes costs and impedes spectral

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requirement as an outdated rule that should be reviewed as part of the biennial review process. *See Biennial Regulatory Review*, CC Docket No. 00-175, *Report*, 16 FCC Rcd 1207, 1231 (2001); see also Federal Communications Commission, *Biennial Regulatory Review 2000*, Updated Staff Report at ¶ 104 (rel. Jan. 17, 2000).

<sup>12</sup> *See 2000 Biennial Review NPRM*, 16 FCC Rcd at 11178.

<sup>13</sup> *See id.* at 11179.

<sup>14</sup> *Id.*

<sup>15</sup> *See Year 2000 Biennial Regulatory Review*, WT Docket No. 01-108, *Report and Order*, 17 FCC Rcd 18401, 18416 n.82 (2002) (“*Analog Sunset Order*”).

<sup>16</sup> *Id.* at 18412.

efficiency”<sup>17</sup> and hinders competition.<sup>18</sup> The Commission also noted that removal of the analog requirement was consistent with “a congressional directive to treat similarly-situated CMRS in a like manner.”<sup>19</sup> In response to concerns that elimination of the analog requirement would undermine public safety because highway call boxes rely on analog technology, the Commission noted that “callboxes are not mobile devices by definition, and thus service to such equipment is not covered by the analog requirement.”<sup>20</sup> In response to concerns of telematics providers, the Commission concluded that their arguments did not justify retention of the outdated technical standard.<sup>21</sup> Moreover, notwithstanding the admittedly safety-related applications of telematics services,<sup>22</sup> the Commission stated that “[w]e are not persuaded that the public interest requires us to accommodate the voluntary business decisions of telematics providers to offer services that require wide-area wireless coverage, and to deploy such services using analog technology.”<sup>23</sup> The Commission concluded that “market forces — and not government regulation — should determine whether and when analog service should be discontinued.”<sup>24</sup> The Commission thus adopted a five year sunset for the analog requirement and indicated that the rule would be retained only in two circumstances: if hearing-aid compatible devices are not available or if market conditions change.<sup>25</sup>

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<sup>17</sup> *Id.* at 18406.

<sup>18</sup> *Id.* at 18407.

<sup>19</sup> *Id.* at 18407, 18413-14.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 18413.

<sup>22</sup> *Id.* at 18412 n.56.

<sup>23</sup> *Id.* at 18413.

<sup>24</sup> *Id.* at 18411.

<sup>25</sup> *Id.*

Five years after commencement of the analog sunset proceeding, and more than three years after adoption of the analog sunset, the Alarm Industry Communications Council ("AICC") filed comments with the Commission requesting that the analog sunset date be extended two years to February 18, 2010.<sup>26</sup> Eight months later, ADT Security Services, Inc. ("ADT") filed "*Ex Parte* Comments" joining AICC in requesting a two-year extension.<sup>27</sup> On November 30, 2006, AICC and ADT filed the instant Petition formally requesting that the FCC commence a rulemaking to consider extending the analog sunset date by two years. The extension was sought in order to give the alarm industry more time to convert their specialized fixed analog radios to digital technology.<sup>28</sup>

## **DISCUSSION**

### **I. THE PETITION PROVIDES NO BASIS FOR EXTENDING THE ANALOG SUNSET**

#### **A. The Rule No Longer Serves Its Purpose and Must be Eliminated**

The analog sunset was adopted as part of the Commission's Biennial Review process pursuant to Section 11 of the Communications Act. According to the Commission, Section 11 directs the Commission to:

[E]xamine why a rule originally was "necessary" and whether it continues to be necessary. We have found that in making the determination whether a rule remains "necessary" in the public interest once meaningful economic competition exists, the Commission must consider whether the concerns that led to the rule or the rule's original purposes may be achieved without the rule or with a modified rule.<sup>29</sup>

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<sup>26</sup> See Comments of the Alarm Industry Communications Committee, WT Docket No. 01-108 (filed Feb. 21, 2006) ("AICC Comments").

<sup>27</sup> See *Ex Parte* Comments of ADT Security Services, Inc., WT Docket No. 01-108 (filed Oct. 4, 2006) ("ADT Comments").

<sup>28</sup> Petition for Rulemaking to Amend Rule Section 22.901(b) to Extend Analog Sunset Date, WT Docket No. 01-108, at 1 (filed Nov. 30, 2006) ("Petition").

<sup>29</sup> See *Analog Sunset Order*, 17 FCC Rcd at 18404.

In evaluating the analog compatibility requirement under Section 11, the Commission determined that “the rule is no longer necessary to achieve its purposes” and that it actually “imposes costs and impedes spectral efficiency”<sup>30</sup> and hinders competition.<sup>31</sup> The Commission indicated that, consistent with the purpose of the rule, the sunset date would be extended only if hearing aid compatible handsets were unavailable or CMRS market conditions changed.<sup>32</sup> Neither issue currently justifies an extension of the analog requirement. Hearing-aid compatible phones are available and the CMRS market remains competitive. Moreover, the Petition seeks an extension of the sunset for neither of these reasons. Given that the rule no longer serves its original purpose and the only bases for extending the analog rule under the Commission’s Section 11 analysis are not present, the rule must be eliminated<sup>33</sup> and the Petition should be denied.

#### **B. The Rule Never Applied to the Devices Generally Used by the Alarm Industry**

The Petition states that the alarm industry utilizes “specialized fixed radios” to transmit alarm systems and seeks a two-year extension of the analog compatibility standard because it claims that it will be unable to replace all of these fixed devices prior to the sunset of the analog compatibility requirement on February 18, 2008.<sup>34</sup> AICC also claims that a two-year extension

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<sup>30</sup> *Id.* at 18406.

<sup>31</sup> *Id.* at 18407.

<sup>32</sup> *Id.* at 18411.

<sup>33</sup> 47 U.S.C. § 161.

<sup>34</sup> See Petition at 12; see also *id.* at 15 (stating that “Alarm signaling radios are generally mounted in attics, crawlspaces and other locations not readily accessible”); AICC Comments at 2, 7 (noting that “AICC member companies use radio units *installed* at the customer premises”(emphasis added)). Although the alarm industry references a limited number of devices that may qualify as mobile, these devices do not constitute cellular telephones and do not involve two-way communication. *Id.* at 18-22.

is necessary so that two-way digital devices can be designed to replace the existing one-way analog devices.<sup>35</sup> The analog compatibility requirement, however, never applied to these devices and cellular carriers have no obligation to provide fixed, non-mobile services to the alarm industry. Thus, grant of the petition would not ensure that Petitioners continue receiving fixed services from cellular carriers.

The analog compatibility requirement applies to the provision of *two-way* cellular service to *mobile* devices. The existing analog requirement does not require cellular operators to provide analog service to fixed one-way devices. The fixed one-way devices typically employed by alarm service companies are able to take advantage of analog service only because it must be provided to analog cellular mobile devices. The alarm service industry is an unintended beneficiary of this requirement. To extend the *two-way* analog cellular *mobile* requirement would not obligate cellular operators to continue providing service to alarm devices.

Section 22.901(b) applies to cellular licensees providing “*two-way cellular mobile radiotelephone*” and requires these licensees to maintain the capability to provide analog service “to cellular telephones designed in conformance with the . . . ANSI TIA/EIA-553-A-1999 ***Mobile Station – Base Station Compatibility Standard***.”<sup>36</sup> The Bulletin was adopted “to ensure that a *mobile* station can obtain cellular service in any cellular system manufactured according to this standard.”<sup>37</sup> The very title of the standard indicates that it governs compatibility between mobile and base stations and the standard sets forth detailed requirements for *two-way* radio

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<sup>35</sup> See AICC Comments at 10 (stating that AMPS alarm transmitters “are generally one-way devices – they send alarm signals only” and requesting additional time to develop two-way GSM alarm transmitters).

<sup>36</sup> 47 C.F.R. § 22.901(b) (emphasis added).

<sup>37</sup> Bulletin 553-A at i (emphasis added).

systems.<sup>38</sup> The devices utilized by the alarm industry are not covered by this requirement — they are not cellular telephones designed in accordance with Bulletin 553-A; they are fixed, one-way transmitters.<sup>39</sup>

Contrary to Petitioners' claims,<sup>40</sup> Commission precedent expressly confirms that cellular licensees are not required to provide analog service to fixed devices such as those used by the alarm industry. In 2002, a number of local government entities and U.S. Senators expressed concern that elimination of the analog compatibility requirement would undermine public safety because highway emergency call boxes relied on analog cellular service.<sup>41</sup> The Commission determined that these concerns did not justify retention of the analog requirement because "callboxes are not mobile devices by definition, and thus service to such equipment is not covered by the analog requirement."<sup>42</sup> That same analysis applies to the alarm industry. If fixed, highway emergency call boxes operated by local government entities for public safety purposes are not covered by the analog requirement, then fixed alarm transmitters operated by for-profit companies certainly are not covered. If the devices are not covered by the analog requirement, there is no basis for extending the sunset date to accommodate the continued use of such devices and the Petition should be denied.<sup>43</sup>

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<sup>38</sup> *Id.*

<sup>39</sup> Petition at 3; AICC Comments at 10.

<sup>40</sup> Petition at 22-25.

<sup>41</sup> *See Analog Sunset Order*, 17 FCC Rcd at 18416 n.82.

<sup>42</sup> *Id.*

<sup>43</sup> *See* 47 C.F.R. § 1.401(e) ("Petitions which are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner."); *see also Reallocation of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) from Commercial Use*, RM No. 11348, *Order*, DA 06-2278 (PSHSB rel. Nov. 3, 2006); Letter from John B. Muleta, Chief, Wireless Telecommunications Bureau, FCC, to Michael W. Grady, Vice President, Technology, Engineering and Quality and Sector Chief

## II. THE ALARM INDUSTRY DOES NOT NEED CELLULAR ANALOG NETWORKS TO PROVIDE WIRELESS TRANSMISSION

Petitioners assert that there are approximately 26 million central station alarm systems currently installed in homes and businesses in the United States<sup>44</sup> and that insurance companies often require alarm companies to utilize two methods for transmitting alarms.<sup>45</sup> The extension request is premised, however, on the need to replace analog alarm equipment, presumably used as a backup to wireline connections, installed at only about one million of those 26 million fixed locations.<sup>46</sup> In other words, less than 4% of central station alarm customers have an analog cellular connection to the central station. This means that wireless backup either involves a very small percentage of alarm installations or utilizes a variety of wireless technologies other than analog cellular.

In fact, analog cellular is far from the only wireless platform that can be used by alarm companies. Part 90 frequencies have been set aside for use by the alarm industry,<sup>47</sup> and there are numerous other wireless options potentially available for use by the alarm industry (*i.e.*, PCS, SMR, ESMR, unlicensed spectrum, and the various broadband wireless bands such as BRS and WCS). The Commission has previously determined that continuation of the analog compatibility

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Technical Officer, Northrop Grumman Information Technology, DA 03-2940 (rel Sept. 24, 2003).

<sup>44</sup> Petition at 2.

<sup>45</sup> *Id.* at 4.

<sup>46</sup> AICC Comments at 3. It is likely that a substantial number of these installations will not need to be replaced. AICC asserts that the cost to the customer for a digital upgrade will be \$450-\$750 *plus the cost of equipment*. AICC Comments at 8 (emphasis added). A significant number of alarm customers may well balk at these kinds of costs for what is usually a back-up channel. Alarm companies market analog cellular backup as a value added feature, not a system requirement. Until the alarm industry actually starts its digital replacement program, it is entirely speculative and unrealistic to assume that all, or even a significant number, of existing analog customers will agree to pay for a digital replacement.

<sup>47</sup> AICC Comments at 3.

requirement is not justified by “voluntary business decision[s] . . . to offer services that require wide-area wireless coverage, and to deploy such services using analog technology.”<sup>48</sup> The concerns of the alarm industry are indistinguishable from those of telematics providers that were previously found to be inadequate to justify retention of the analog rule.<sup>49</sup>

Petitioners claim that “it was utterly impossible for any alarm company to install a replacement digital radio for the first sixty percent of the transition period” because there were no digital options available prior to 2006.<sup>50</sup> They further claim that digital alarm radios are currently available from only two companies — Telular Corporation and Honeywell.<sup>51</sup> This simply is not true. There are numerous devices, such as 3G modems and specialized digital modules designed for embedding in other equipment, which can be adapted to alarm panel applications. For example, on Verizon Wireless’ Approved Device List, there are a number of modules from various manufacturers that are candidates for this type of application. There are also many CDMA-based devices on the market that can be adapted to alarm panel applications, such as the Telular SX5T digital IX modem.

Moreover, digital cellular alarm solutions were available well before 2006. In its 2002 Annual Report, Numerex described itself as “the established market leader in the wireless monitoring of security alarm panels” and noted that its “migration strategy to a digital standard is already underway, and is designed to provide our customers a pathway forward *well within the*

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<sup>48</sup> *Analog Sunset Order*, 17 FCC Rcd at 18413.

<sup>49</sup> *See id.* at 18412.

<sup>50</sup> Petition at 11.

<sup>51</sup> *Id.* at 10-11.

*five-year analog sunset provisions outlined by the FCC in 2002.”*<sup>52</sup> Numerex also identified two cellular digital options that were available *four years ago*:

- The DigiCell 1650® alarm transceiver is a cellular digital communicator designed to provide full data transmission; and
- The DigiCell 1500® universal alarm transceiver is a cellular digital unit designed to signal the central monitoring station even if telephone lines have been cut or damaged.<sup>53</sup>

These replacement radios are still available.<sup>54</sup> L3 and TransTel both manufacture POTS line-alternative solutions. Moreover, contemporary digital alarm backup and telematics solutions use virtually identical wireless solutions and telematics providers have reported to the Commission that they have developed and are deploying digital alternatives to analog. Accordingly, Petitioners’ claim that digital alternatives do not currently exist is simply unsustainable.

Finally, alarm companies are not limited to wireless solutions. There are several types of wireline connections that can be, and are, used for alarm installations. In many cases, there may be multiple sources of such connections, providing the redundancy needed by alarm service providers in some cases.<sup>55</sup> While some newer customers may not have wireline POTS service in place,<sup>56</sup> there is nothing other than cost to prevent an alarm service provider from having either POTS service or a dedicated alarm circuit installed, and fiber- or cable-based solutions may also be available.<sup>57</sup> The fact that using resold analog cellular minutes may be less expensive than the

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<sup>52</sup> Numerex 2002 Annual Report at 2, 5.

<sup>53</sup> *Id.*

<sup>54</sup> See Uplink, *Don’t Let the Sun Set on Your Customers*, available at <http://www.uplink.com/Dealers/sunset.asp>.

<sup>55</sup> See Petition at 4.

<sup>56</sup> *Id.* at 13.

<sup>57</sup> The fact that some customers do not have existing wireline service does not mean that the alarm company must use analog cellular service. Wireline service can be obtained at the vast majority of home, retail, and office locations.

wireline alternatives does not justify forcing cellular operators to underwrite the cost of operating analog networks for the benefit of Petitioners.

### **III. AN EXTENSION OF THE ANALOG COMPATIBILITY REQUIREMENT WOULD BE INCONSISTENT WITH THE PUBLIC INTEREST**

#### **A. An Extension Would Reward the Alarm Industry for Failing to Take Reasonable Steps to Transition to Digital Equipment**

Petitioners seek relief from the Commission because they claim the alarm industry will not be able to transition to digital technology prior to the analog sunset in February 2008.<sup>58</sup> Despite a five year transition period, Petitioners claim they need additional time because:

- They only recently became aware of the sunset date;<sup>59</sup>
- Digital replacement radios only became available in the last several months;<sup>60</sup> and
- They do not know the locations of the existing, fixed analog alarm radios that must be replaced.<sup>61</sup>

These claims do not provide a basis for Commission relief.

First, the *Analog Sunset Order* and *Order on Reconsideration* were published in the Federal Register,<sup>62</sup> which constitutes constructive notice to affected parties of changes in the Commission's rules.<sup>63</sup> AICC and ADT are well versed in FCC and federal administrative procedures and have actively participated in numerous proceedings.<sup>64</sup> Nevertheless, AICC

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<sup>58</sup> See Petition at ii.

<sup>59</sup> AICC Comments at 12-13.

<sup>60</sup> Petition at 10-13.

<sup>61</sup> *Id.* at 10.

<sup>62</sup> See 67 Fed. Reg. 77175 (rel. Dec. 17, 2002).

<sup>63</sup> See, e.g., *Request of 220 Television, Inc., Dayton, Ohio for Waiver of Section 73.3572 of the Commission's Rules*, 81 FCC 2d 575, 577-78 (1980).

<sup>64</sup> A search of the Commission's Electronic Comment Filing System reveals at least 92 filings by AICC dating back to 1993 and numerous filings by ADT dating back to 1994.

claims ignorance of the analog sunset proceeding and implies that the first notice of the analog sunset to the alarm industry came from Verizon Wireless in the summer of 2005.<sup>65</sup> This simply is not true. Cellular carriers have been advising the alarm industry of the sunset date since at least 2003 and, as discussed below, the alarm industry was aware of the analog sunset prior to that time.

In 2001, while the FCC was considering whether to eliminate the cellular analog requirement, the alarm industry knew that it could not rely on the continuation of analog service and would need to transition to digital equipment.<sup>66</sup> A spokesman for a vendor of cellular-based alarm devices was quoted in the trade press at that time as stating: “We’re not going to be caught in the pinch if the analog channels go away.”<sup>67</sup> The spokesman further noted that his company had started working on products for 3G digital networks and held five patents on the technology.<sup>68</sup>

One AICC member — Numerex Corp. — publicly discussed adoption of a transition plan in light of the analog sunset in 2002.<sup>69</sup> Another AICC member issued a notice to its customers stating that:

Vector has developed alternatives to address this issue without an interruption in this critical service. It’s important to note that this change will NOT just impact Vector Security customers, but ALL alarm customers receiving cellular back-up alarm services from ANY alarm companies nationwide. We have been testing a

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<sup>65</sup> AICC Comments at 13.

<sup>66</sup> See Hilary Smith, *Telematics, Security Companies Among Those That Still Need Analog Spectrum*, RCR WIRELESS NEWS, Mar. 19, 2001, available at [http://www.accessmylibrary.com/comsite5/bin/comsite5.pl?page=document\\_print&item\\_id=0286-10959778&purchase\\_type=ITM&action=print](http://www.accessmylibrary.com/comsite5/bin/comsite5.pl?page=document_print&item_id=0286-10959778&purchase_type=ITM&action=print) (last visited Jan. 11, 2007).

<sup>67</sup> *Id.* (quoting Michael Leibowitz of Cellular Alarm Technology Ltd.).

<sup>68</sup> *Id.*

<sup>69</sup> Numerex 2002 Annual Report at 2, 5.

variety of replacement technologies over the past year in anticipation of this specific ruling.<sup>70</sup>

Yet another AICC member, the National Burglar and Fire Alarm Association (“NBFAA”) — issued a bulletin to its members in April 2005 reminding them of the analog sunset date.<sup>71</sup> Thus, the alarm industry has had ample notice of the analog sunset.

Second, as discussed above, replacement options for cellular analog radios did not just become available in the last several months. There are numerous wireless technologies available for the transmission of alarm signals and Numerex announced the availability of a cellular digital solution in 2002. In other contexts, the Commission has previously noted that equipment unavailability does not justify relief unless the party seeking relief can demonstrate and document that it aggressively sought equipment from vendors.<sup>72</sup> In essence, the Commission has determined that a party cannot justify relief on equipment unavailability grounds if it never placed demands on vendors in a timely manner. Petitioners fail to demonstrate that it placed timely orders for replacement equipment. The record demonstrates, however, that the industry was aware of the requirement in 2002 or even earlier, and that some companies had replacement equipment available four years ago.

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<sup>70</sup> Vector Security, *Recent FCC Rule Change Requires Cellular-Based Back-Up Monitoring Transmitters to be replaced!*, available at [http://www.vectorsecurity.com/VSI\\_Website\\_AMPS\\_Information.html](http://www.vectorsecurity.com/VSI_Website_AMPS_Information.html).

<sup>71</sup> NBFAA Member Update, *FCC Establishes Sunset Clause for Analog Cellular Networks* (Apr. 22, 2005), available at <http://www.alarm.org/update-member/2005/MemberUpdate2005-04-22.htm>.

<sup>72</sup> *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Order, 18 FCC Rcd 21838, 21843-44 (2003) (“*E911 Reconsideration Order*”); *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442, 17456 (2000) (“*E911 Fourth MO&O*”) (noting that the placement of “timely” equipment orders would be considered in requests for Commission relief).

Third, the alarm industry's failure to accurately note the location of analog alarm transmitters certainly should not justify an extension of the sunset and calls into question the "estimates" of the number of analog transmitters that must be replaced. The five year transition period adopted by the Commission provided more than enough time to identify the location of analog alarm transmitters that may require replacement once the analog requirement sunset.

Finally, the alarm industry points to the benefits of alarm service — lives saved, burglaries foiled, *etc.* — but those benefits cannot be tied to an extension of the analog deadline. Nowhere do the Petitioners demonstrate that these benefits are entirely dependent on analog cellular availability. Alarm service was offered for years before cellular technology even existed, and it can be offered by means of many platforms other than analog cellular. It is the responsibility of alarm service providers to take the steps needed to update their equipment to keep pace with technology, and to timely find and deploy alternatives to obsolete technology that is about to be discontinued. Cellular operators are not responsible for the alarm industry's business decision to continue using analog cellular service that has long been scheduled to sunset.

#### **B. An Extension Would Unfairly Burden the CMRS Industry and Would Harm Consumers**

The *Public Notice* asks for information regarding the costs and other challenges faced by the cellular industry if the analog sunset date were extended.<sup>73</sup> As discussed below, the costs associated with maintaining the analog requirement are significant. Perhaps most important, however, is that fact that the Commission is being asked to impose those costs — whatever they may be — on cellular carriers solely for the benefit of the alarm industry, which seeks to defer the cost of replacing obsolete technology, having started too late.

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<sup>73</sup> *Public Notice* at 2.

There can be no doubt that continuing the analog requirement will impose significant costs on cellular carriers. There are both out-of-pocket costs associated with maintaining and operating analog networks and opportunity costs — the efficiencies forgone by using spectrum for analog service instead of digital service. The Commission has previously analyzed the burdens on the cellular industry and determined that:

[T]he analog requirement harms competition by imposing unnecessary operating costs and impeding the spectral efficiency of the two cellular providers in the market. First, the analog requirement places a financial burden on cellular licensees who would prefer to use their spectrum and other resources on digital technology rather than setting aside a portion to support their analog facilities. Cellular licensees that deploy digital technologies must also maintain a minimum scale analog network. These cellular licensees incur operation and maintenance costs for two mobile telephony networks in order to comply with Commission rules. Also, by maintaining two networks, operation and maintenance costs associated with the digital network may be higher because the carrier is not able to optimize the system as efficiently as it would if there was only one network. Second, we also agree with commenters who argue that imposition of the analog requirement impedes spectral efficiency. Digital technologies are more efficient than analog, use less bandwidth, and give consumers access to advanced services not feasible with analog. The analog requirement prevents cellular licensees from choosing to efficiently utilize their spectrum by installing an all-digital network and potentially providing additional advanced services. Further, the analog requirement may result in certain carriers being capacity constrained in certain geographic markets depending on the amount of spectrum dedicated to AMPS, usage by AMPS customers, type of digital technology, and how intensively their digital customers utilize their services. Thus, to the extent that a cellular carrier incurs costs to operate an analog network that it would not maintain but for the analog requirement, we conclude that the rule imposes unnecessary financial burdens and hinders spectral efficiency. These factors in turn impede the ability of the cellular carrier to compete vis-à-vis other mobile telephony providers who are not subject to the requirement.<sup>74</sup>

This analysis of the costs and burdens of analog service remains valid today.

From the perspective of rural customers, the roll-out of wireless broadband services may provide those customers with their only opportunity for broadband access. Rural customers are less likely than urban customers to have alternate sources of broadband access, and therefore

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<sup>74</sup> See *Analog Sunset Order*, 17 FCC Rcd at 18408-09.

rural demand for higher speeds and transfer rates may be greater than for the typical customer. Cellular licenses will be constrained in their ability to offer these services, however, while they continue to set aside spectrum for analog use by a very small percentage of customers.

Finally, as noted in the analog sunset reports required by the Commission, many network infrastructure vendors no longer support analog equipment and most analog network infrastructure products are manufacturer-discontinued.<sup>75</sup> Thus, it would be extraordinarily difficult and expensive for the cellular industry to maintain its analog network for an additional two years.

The alarm industry, however, does not even attempt to justify imposing these costs on cellular operators. There is no suggestion that the continued use of analog cellular networks by alarm systems will produce significant revenue to offset the costs. The overwhelming likelihood is that one-way fixed alarm units will produce very little revenue to the host cellular operator. Such units use airtime only for periodic tests and for reporting alarm incidents, and the Petition indicates that many alarm operators use bulk airtime purchased from resellers.<sup>76</sup> Moreover, analog usage in general is very low. Analog airtime is a fraction of a percent of total airtime used on cellular networks. Thus, although continuation of the analog rule will impose considerable costs on cellular operators as discussed above, maintenance of an analog network produces very little airtime revenue in return. The alarm industry, on the other hand, would receive only benefits, while avoiding costs — the cost of using alternatives to cellular technology such as landlines, as well as the cost and burden of developing and deploying digital cellular alarm technology. It is not surprising that the alarm industry avoided any attempt to provide an economic justification for the extension of the analog rule.

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<sup>75</sup> See, e.g., Cingular Wireless LLC First Analog Sunset Report at 3 (Feb. 21, 2006).

<sup>76</sup> See Petition at 11-12.

#### IV. COMMISSION PRECEDENT DOES NOT SUPPORT AN EXTENSION OF THE ANALOG SUNSET DATE

Petitioners claim that the extension of deadlines, such as the analog sunset, are appropriate when the predictive judgment of the FCC proves faulty and the equipment necessary to comply with the regulatory deadline is unavailable.<sup>77</sup> These statements do not support Petitioners' cause. Petitioners do not seek relief from regulatory compliance deadlines of their own, but rather seek to extend the imposition of regulatory burdens on others. Thus, the precedent cited by Petitioners is inapposite.

In any event, Petitioners' arguments are without merit. First, the predictive judgment of the FCC was not faulty. Five years was sufficient time to develop alternatives to cellular analog devices. Contrary to Petitioners' claims that replacement equipment only became available in the last few months, replacement options have been available since 2002.<sup>78</sup>

Second, the Commission has already determined that the replacement of fixed analog devices is not a basis for extending the analog sunset because these devices were never covered by the rule.<sup>79</sup> This principle is embodied in the very cases cited by Petitioners. In *Leap Wireless International*, the Commercial Wireless Division ("CWD") stated that an extension of a construction deadline will be granted to a licensee if the failure to complete construction is due to "causes beyond its control."<sup>80</sup> In *Monet Mobile Networks, Inc.*, the CWD stated that "an extension is supported in this case by the diligence that Monet has demonstrated prior to the acquisition of the licenses . . . Monet states that it began working with equipment vendors to

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<sup>77</sup> *Id.* at 22-24.

<sup>78</sup> Numerex 2002 Annual Report at 2, 5.

<sup>79</sup> See *Analog Sunset Order*, 17 FCC Rcd at 18416 n.82.

<sup>80</sup> 16 FCC Rcd 19573, 19575 (CWD 2001).

develop the advanced, data-only system before it was authorized to operate the licenses.”<sup>81</sup>

Petitioners have made no such due diligence showing here and the record demonstrates that equipment was available well in advance of the analog sunset date.

Third, equipment unavailability is a basis for Commission relief only if the party seeking relief can demonstrate and document that it aggressively sought equipment from vendors in a timely manner.<sup>82</sup> In other words, the requesting party must demonstrate that the equipment unavailability is due to factors beyond its control.<sup>83</sup> No such showing has been made.

Moreover, none of the cases cited by the Petitioners involved a deadline extension *for an entire industry* or an extension of a sunset date. The construction deadline cases granted extensions to individual licensees based on unique factual circumstances. Similarly, a global extension of CMRS E911 obligations was never granted.

In contrast, the Commission has refused to alter sunset dates to accommodate the commercial interests of certain parties because of the need for regulatory certainty:

Because our Emerging Technologies principles are intended to allow new licensees early entry into the band and are not designed as open-ended mechanisms for providing relocation compensation to displaced incumbents, it would be inconsistent with those principles to eliminate the sunset date. We continue to believe that the sunset date is a vital component of the Emerging Technologies relocation principles because it provides a measure of certainty for

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<sup>81</sup> 17 FCC Rcd 6452 (CWD 2002).

<sup>82</sup> *E911 Reconsideration Order*, 18 FCC Rcd at 21843-44; *E911 Fourth MO&O*, 15 FCC Rcd at 17456.

<sup>83</sup> This principle is embodied in the very cases cited by Petitioners. *See Leap Wireless*, 16 FCC Rcd at 19575 (stating that an extension of a construction deadline will be granted to a licensee if the failure to complete construction is due to “causes beyond its control”); *Monet Mobile*, 17 FCC Rcd at 6452 (stating that “an extension is supported in this case by the diligence that Monet has demonstrated prior to the acquisition of the licenses . . . Monet states that it began working with equipment vendors to develop the advanced, data-only system before it was authorized to operate the licenses”).

new technology licensees, while giving incumbents time to prepare for the eventuality of moving to another frequency band.”<sup>84</sup>

The Commission also refused to extend the five-year sunset date for the CMRS resale obligation based on unsupported concerns.<sup>85</sup> The Commission should similarly reject Petitioners’ request for an extension of the analog sunset based on unsubstantiated allegations of equipment unavailability.

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<sup>84</sup> *Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems*, ET Docket No. 00-258, *Ninth Report and Order*, 21 FCC Rcd 4473, 4497-98 (2006).

<sup>85</sup> *Interconnection and Resale Obligations Pertaining to CMRS*, CC Docket No. 94-54, *Order on Reconsideration of Memorandum Opinion and Order on Reconsideration*, 15 FCC Rcd 16221, 16224 (2000).

## CONCLUSION

The Commission adopted the analog sunset to make sure that certain classes of consumers, specifically the hearing disabled and E911-only consumers, would have digital alternatives to analog service. The cellular industry has worked diligently to meet the needs of those customers and HAC compliant phones are now available. Nothing in Petitioners' request to extend the analog sunset would justify the Commission in doing so. The fixed, one way devices utilized by the alarm industry are not even covered by the analog requirement. Accordingly, the Commission should not initiate a rulemaking to consider extending the analog sunset. The Petition does not warrant consideration because it misconstrues the scope of the analog compatibility standard and is inconsistent with Commission precedent.

Respectfully submitted,

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January 19, 2007

## **ATTACHMENT**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Rulemaking to Amend Rule	)	RM No. 11355
Section 22.901(b) to Extend Analog Sunset	)	
Date	)	
	)	
Sunset of the Requirement that Cellular	)	WT Docket No. 01-108
Systems Maintain Analog Transmission	)	
Capacity through February 18, 2008, Rule	)	
Section 22.901(b)	)	

To: The Wireless Telecommunications Bureau

**MOTION TO DISMISS**

ALLTEL Corporation, Dobson Communications Corporation, and Verizon Wireless (“Licensees”) hereby move to dismiss the Petition for Rulemaking (“Petition”) filed jointly by the Alarm Industry Communications Committee and ADT Security Services, Inc. (“Petitioners”). The Petition was filed for the sole purpose of asking the FCC to commence a rulemaking proceeding to consider extending the analog compatibility requirement contained in Section 22.901(b) of the Commission’s rules for two additional years so that the alarm industry would have more time to replace its fixed analog cellular equipment with digital equipment.<sup>1</sup> As discussed below, the Petition should be dismissed pursuant to Section 1.401(e) of the Commission’s rules which states:<sup>2</sup>

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<sup>1</sup> The Commission placed the Petition on public notice and sought comment on “statutory, case law, and other legal authority that would support an extension of the sunset date.” *Wireless Telecommunications Bureau Seeks Comment on Petition for Rulemaking to Extend Cellular Analog Sunset Date*, RM No. 11355, *Public Notice*, DA 06-2559, at 3 (Dec. 20, 2006).

<sup>2</sup> 47 C.F.R. § 1.401(e).

Petitions which are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner.<sup>3</sup>

The Petition does not warrant consideration because it misconstrues the scope of the analog compatibility standard, is inconsistent with indistinguishable Commission precedent and cannot serve to give Petitioners the relief they are seeking. In fact, the Commission previously considered and rejected a similar request based on the same threshold problem that exists with respect to the Petitioners filing – *i.e.*, because the devices at issue are “not mobile devices . . . service to such equipment is not covered by the analog requirement.”<sup>4</sup> Thus, an extension of the analog compatibility requirement to allow Petitioners additional time to replace *fixed* devices *would* be contrary to the analog rule itself and directly inconsistent with applicable Commission precedent. Given this basic defect, consideration of the Petition would waste scarce Commission resources on a request that, even if granted, would not address Petitioners’ concerns.

The analog compatibility requirement applies only to *mobile cellular telephones* and, thus, does not apply to fixed devices. Section 22.901(b) states:

Until February 18, 2008, each cellular system that provides *two-way* cellular *mobile* radiotelephone service must —

- (1) Maintain the capability to provide compatible analog service (“AMPS”) to cellular telephones designed in conformance with the specifications contained in sections 1 and 2 of the standard document ANSI TIA/EIA-553-A-1999 ***Mobile Station – Base Station Compatibility Standard*** (approved October 14, 1999) . . .;
- (2) Provide AMPS, upon request, to subscribers and roamers using such cellular telephones . . .<sup>5</sup>

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<sup>3</sup> *Id.*; see *Reallocation of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) from Commercial Use*, RM No. 11348, Order, DA 06-2278 (PSHSB rel. Nov. 3, 2006); Letter from John B. Muleta, Chief, Wireless Telecommunications Bureau, FCC, to Michael W. Grady, Vice President, Technology, Engineering and Quality and Sector Chief Technical Officer, Northrop Grumman Information Technology, DA 03-2940 (Sept. 24, 2003).

<sup>4</sup> See *Year 2000 Biennial Regulatory Review*, WT Docket No. 01-108, *Report and Order*, 17 FCC Rcd 18401, 18416 n.82 (2002) (“*Analog Sunset Order*”).

<sup>5</sup> 47 C.F.R. § 22.901(b) (emphasis added).

The rule, which is referred to as the analog compatibility requirement, only requires cellular licensees to provide AMPS to *cellular telephones* designed in conformance with ANSI TIA/EIA-553-A-1999 Mobile Station – Base Station Compatibility Standard (approved October 14, 1999) (“Bulletin 553-A”). The devices utilized by the alarm industry are not covered by this requirement — they are not cellular telephones designed in accordance with Bulletin 553-A.

Bulletin 553-A was adopted “to ensure that a *mobile* station can obtain cellular service in any cellular system manufactured according to this standard.”<sup>6</sup> The very title of the standard indicates that it governs compatibility between mobile and base stations. The standard sets forth detailed requirements for *two-way* radio systems.<sup>7</sup>

The Petition concedes that the alarm industry utilizes “specialized fixed radios” to transmit alarm systems and seeks a two-year extension of the analog compatibility standard because it claims that it will be unable to replace all of these fixed devices prior to the sunset of the analog compatibility requirement on February 18, 2008.<sup>8</sup> One of the Petitioners, AICC, also claims that a two-year extension is necessary so that two-way digital devices can be designed to replace the existing one-way analog devices.<sup>9</sup> The devices utilized by the alarm industry are not

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<sup>6</sup> Bulletin 553-A at i.

<sup>7</sup> *Id.*

<sup>8</sup> See Petition for Rulemaking to Amend Rule Section 22.901(b) to Extend Analog Sunset Date, WT Docket No. 01-108, at 12 (filed Nov. 30, 2006) (“Petition”); see also *id.* at 15 (stating that “Alarm signaling radios are generally mounted in attics, crawlspaces and other locations not readily accessible”); Comments of the Alarm Industry Communications Committee, WT Docket No. 01-108 at 2, 7 (Feb. 21, 2006) (noting that “AICC member companies use radio units *installed* at the customer premises”(emphasis added)) (“AICC Comments”). Although the alarm industry references a limited number of devices that may qualify as mobile, these devices do not constitute cellular telephones and do not involve two-way communication. Petition at 18-22.

<sup>9</sup> See AICC Comments at 10 (stating that AMPS alarm transmitters “are generally one-way devices – they send alarm signals only” and requesting additional time to develop two-way GSM alarm transmitters).

covered, however, by the analog compatibility standard. The standard governs the provision of two-way service between mobile stations and base stations. The alarm industry utilizes fixed, one-way transmitters.<sup>10</sup>

Moreover, contrary to Petitioners' claims, Commission precedent does not support an extension of the analog requirement.<sup>11</sup> In the 2000 *Analog Sunset Order*, in which the Commission adopted the 5 year analog sunset at issue in Petitioners' filing, the Commission confirmed that cellular licensees are not required to provide analog service to fixed devices such as those used by the alarm industry.<sup>12</sup> In that proceeding, a number of local government entities and U.S. Senators expressed concern that the elimination of the analog compatibility requirement would undermine public safety because highway call boxes rely on AMPS.<sup>13</sup> In response, the Commission noted that "callboxes are not mobile devices by definition, and thus service to such equipment is not covered by the analog requirement."<sup>14</sup> That same analysis applies to the alarm industry. If fixed highway call boxes operated by local government entities for public safety purposes are not covered by the analog requirement, fixed alarm transmitters operated by for-profit companies certainly are not covered.

Consistent with the Commission's determination regarding fixed, highway emergency call boxes, the Commission stated that the analog requirement had only two objectives: (i) to permit roaming by mobile handsets; and (ii) to ensure reasonable consumer mobile handset costs

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<sup>10</sup> Petition at 3; AICC Comments at 10.

<sup>11</sup> Petition at 22-25.

<sup>12</sup> See *Analog Sunset Order*, 17 FCC Rcd at 18416 n.82.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* The Commission also noted that the five year transition period provided sufficient time to transition any analog devices to digital equipment. *Id.*

for consumers.<sup>15</sup> Neither policy objective would be furthered by an extension of the sunset date to accommodate the continued use of fixed, analog devices by the alarm industry.

Based on the foregoing, the Petition should be dismissed pursuant to Section 1.401(e) of the Commission's rules.

Respectfully submitted,

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<sup>15</sup> *Id.* at 18405.